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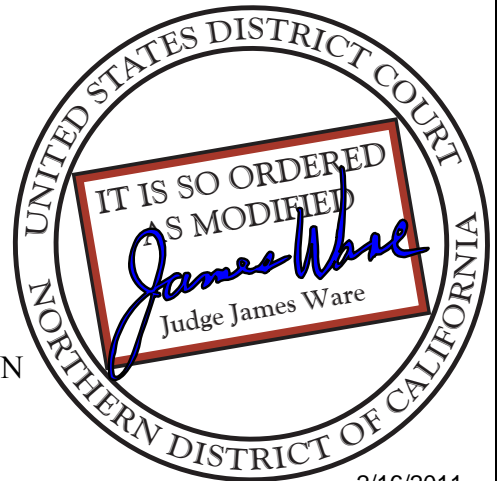
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Attorneys for Defendant ACER AMERICA CORPORATION



2/16/2011

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

KEVIN EMBRY, an individual, on behalf of
himself, the general public and those similarly
situated

Plaintiff,

v.

ACER AMERICA CORPORATION; AND
DOES 1 THROUGH 50

Defendants

CASE NO. CV-09-01808 (JW)

**STIPULATION AND [PROPOSED]
ORDER TO CONTINUE DISCOVERY
CUTOFF AND MOTION TO COMPEL
DEADLINE**

1 TO THE COURT:

2 Whereas, on September 28, 2010, this Court established February 4, 2011 as the discovery
3 cut off (Dkt.#95, at 1);

4 Whereas, on January 26, 2011, Magistrate Judge Lloyd issued an order granting in part
5 and denying in part Plaintiff's motions to compel ("January 26 Order") (Dkt.# 114);

6 Whereas, the January 26 Order, *inter alia*, ordered Defendant to produce "all responsive,
7 non-privileged documents and serve its answers to interrogatories **no later than February 2,**
8 **2011;**" (Id.) (emphasis in original);

9 Whereas, the January 26 Order additionally confirmed that Defendant would appear for
10 the Fed. R. Civ. P. Rule 30(b)(6) deposition that was noticed by Plaintiff, as limited by the
11 January 26 Order; and

12 Whereas, Defendant has not been able to fully comply with the January 26 Order due to
13 circumstances including the closure of Acer Inc.'s Taiwan office due to the Chinese New Year.

14 NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE as follows:

15 The discovery cut off previously set for February 4, 2011 will be continued until and
16 including **February 28, 2011.**

17 Any applicable motion to compel deadlines, including without limitation set forth in Civil
18 L.R. 37-3, will also be continued;

19 If this Court denies this stipulation, Plaintiff shall have five (5) days from the denial of
20 this stipulation to file a motion to compel;

21 Defendant shall not argue that Plaintiff's motion to compel is untimely if it is filed within
22 five (5) days of this Court's denial of this stipulation; and

23 This stipulation shall not waive either parties' right to request a further continuation of the
24 discovery cut-off or motion to compel deadline and/or a continuation of the briefing schedule for
25 Plaintiff's renewed motion for class certification or Defendant's motion for summary judgment.

26 IT IS SO STIPULATED.
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1 DATED: February 11, 2011

GUTRIDE SAFIER LLP

/s/

2 By: _____

3 Adam Gutride

Seth A. Safier

4 Attorneys for Plaintiff Kevin Embry

5 DATED: February 11, 2011

6 QUINN EMANUEL URQUHART &
7 SULLIVAN, LLP

/s/

8 By: _____

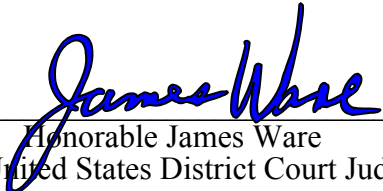
9 Jeffery D. McFarland

Stan Karas

10 Attorneys for Defendant Acer America
11 Corporation

12 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

13 DATED: February 16, 2011

14 
15 _____
16 Honorable James Ware
17 United States District Court Judge
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